

CLOSED

**U.S. District Court
Eastern District of Louisiana (New Orleans)
CIVIL DOCKET FOR CASE #: 2:17-cv-02668-MVL-JVM**

Robert Beard, et al v. U.S. Army Corps of Engineers
Assigned to: Judge Mary Ann Vial Lemmon
Referred to: Magistrate Judge Janis van Meerveld
Cause: 05:552 Freedom of Information Act

Date Filed: 03/29/2017
Date Terminated: 02/20/2019
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Robert Beard

represented by **Joshua M. Lewis**
Joshua M. Lewis, Attorney at Law
1720 Kaliste Saloom Road
Suite C8
Lafayette, LA 70508
337-552-2057
Email: joshua@jmlewislaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Antonio M. Clayton
Clayton, Fruge & Ward, LLC
3741 Hwy 1 South
Port Allen, LA 70767
225-344-7000
Email: tclaytonlaw@aol.com
ATTORNEY TO BE NOTICED

Drake L. Lewis
17457 Wes McLin Road
Suite A
Livingston, LA 70754
225-686-1111
Email: dlewis562000@gmail.com
ATTORNEY TO BE NOTICED

Plaintiff

Carolyn Milton

represented by **Joshua M. Lewis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Antonio M. Clayton
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Garry Lewis

represented by **Joshua M. Lewis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Antonio M. Clayton
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Livingston Town, LA

represented by

Joshua M. Lewis
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Antonio M. Clayton
 (See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

U.S. Army Corps of Engineers

represented by **Brock Darren Dupre**
 U. S. Attorney's Office (New Orleans)
 650 Poydras St.
 Suite 1600
 New Orleans, LA 70130
 504-680-3005
 Email: brock.dupre@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/29/2017	<u>1</u>	COMPLAINT against U.S. Army Corps of Engineers (Filing fee \$ 400 receipt number 053L-6054334) filed by Robert Beard. (Attachments: # <u>1</u> Civil Cover Sheet)Attorney Joshua M. Lewis added to party Robert Beard(pty:pla).(Lewis, Joshua) Modified text on 4/3/2017 (jls). (Entered: 03/29/2017)
03/30/2017	2	Initial Case Assignment to Judge Mary Ann Vial Lemmon and Magistrate Judge Janis van Meerveld. (jeg) (Entered: 03/30/2017)
03/30/2017	<u>3</u>	Amendment/Supplement to Document by All Plaintiffs re <u>1</u> Complaint, <i>with attached exhibits</i> (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5a, # <u>6</u> Exhibit 5b, # <u>7</u> Exhibit 6)(Lewis, Joshua) (Entered: 03/30/2017)
04/03/2017	4	Request of Summons Issued as to U.S. Army Corps of Engineers filed by All Plaintiffs re <u>1</u> Complaint,. (Attachments: # <u>1</u> Summons)(Lewis, Joshua) (Entered: 04/03/2017)
04/04/2017	<u>5</u>	Summons Issued as to U.S. Army Corps of Engineers. (ajn) (Entered: 04/04/2017)
05/02/2017	<u>6</u>	Request of Summons Issued as to U.S. Army Corps of Engineers filed by Robert Beard re <u>1</u> Complaint,. (Attachments: # <u>1</u> Summons No. 1, # <u>2</u> Summons No. 2)(Lewis, Joshua) (Attachment 1 replaced on 5/3/2017) (ajn). (Attachment 2 replaced on 5/3/2017) (ajn). (Entered: 05/02/2017)
05/03/2017	<u>7</u>	Summons Issued as to U.S. Army Corps of Engineers. (Attachments: # <u>1</u> Summons)(ajn) (Entered: 05/03/2017)
06/07/2017	<u>8</u>	EXPARTE/CONSENT MOTION for Extension of Time to Answer re <u>1</u> Complaint, by U.S. Army Corps of Engineers. (Attachments: # <u>1</u> Proposed Order)Attorney Brock Darren Dupre added to party U.S. Army Corps of Engineers(pty:dft).(Dupre, Brock) (Entered: 06/07/2017)
06/08/2017	9	ORDER granting <u>8</u> Motion for Extension of Time to Answer re <u>1</u> Complaint as to U.S. Army Corps of Engineers answer due 6/29/2017. Signed by Judge Mary Ann Vial Lemmon on 6/7/2017. (cms) (Entered: 06/08/2017)
06/20/2017	<u>10</u>	EXPARTE/CONSENT MOTION to Enroll as Additional Counsel of Record <i>Drake L. Lewis</i> by Robert Beard. (Attachments: # <u>1</u> Proposed Order)(Lewis, Joshua) (Entered: 06/20/2017)
06/21/2017	<u>11</u>	ORDER granting <u>10</u> Motion to Enroll as Additional Counsel of Record, Attorney Drake L. Lewis, for Robert Beard. Signed by Judge Mary Ann Vial Lemmon on 6/21/2017. (ajn) (Entered: 06/21/2017)

06/29/2017	<u>12</u>	ANSWER to <u>1</u> Complaint, by U.S. Army Corps of Engineers.(Dupre, Brock) (Entered: 06/29/2017)
07/07/2017	<u>13</u>	NOTICE: Scheduling Conference set for 7/18/2017 10:15 AM before case manager by telephone. (cbn) (Entered: 07/07/2017)
07/28/2017	<u>14</u>	NOTICE: Scheduling Conference set for 8/17/2017 10:45 AM before case manager by telephone. (cbn) (Entered: 07/28/2017)
08/15/2017	<u>15</u>	NOTICE: Scheduling Conference reset for 8/31/2017 10:45 AM before case manager by telephone. (cbn) (Entered: 08/15/2017)
09/08/2017	<u>16</u>	SCHEDULING ORDER: Final Pretrial Conference set for 3/1/2018 10:30 AM before Judge Mary Ann Vial Lemmon. Bench Trial set for 3/22/2018 09:00 AM before Judge Lemmon. All discovery must be completed by 1/2/2018. Signed by clerk. (Attachments: # <u>1</u> Pretrial Notice Form)(NEF: Mag. Judge van Meerveld)(cbn) (Entered: 09/08/2017)
12/06/2017	<u>17</u>	MOTION to Compel <i>Vaughn Index</i> by Robert Beard. Motion referred to Janis van Meerveld. Motion(s) will be submitted on 1/3/2018. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit EX A FOIA Denial Letter)(Lewis, Drake) (Additional attachment(s) added on 12/7/2017: # <u>3</u> Notice of Submission (Civil Only)) (cms). Modified submission date on 12/7/2017 (cms). (Entered: 12/06/2017)
12/22/2017	<u>18</u>	RESPONSE/MEMORANDUM in Opposition filed by U.S. Army Corps of Engineers re <u>17</u> MOTION to Compel <i>Vaughn Index</i> . (Attachments: # <u>1</u> Exhibit 1)(Dupre, Brock) (Entered: 12/22/2017)
01/02/2018	<u>19</u>	ORDERED that the parties contact Magistrate Judge Janis vanMeerveld within 10 days for the purpose of conducting a settlement conference. Settlement conference must be held before pre-trial. Signed by Judge Mary Ann Vial Lemmon on 1/2/2018. (cms) (Entered: 01/03/2018)
01/04/2018	<u>20</u>	ORDER: DENIED as moot <u>17</u> Motion for a Vaughn Index. Signed by Magistrate Judge Janis van Meerveld on 1/4/2018. (ajn) (Entered: 01/04/2018)
01/05/2018	<u>21</u>	EXPARTE/CONSENT Joint MOTION to Continue <i>Trial on the Merits and Related Cutoff Dates</i> by U.S. Army Corps of Engineers. (Attachments: # <u>1</u> Proposed Order)(Dupre, Brock) (Entered: 01/05/2018)
01/09/2018	<u>22</u>	ORDER granting <u>21</u> Joint MOTION to Continue <i>Trial on the Merits and Related Cutoff Dates</i> filed by U.S. Army Corps of Engineers. Trial on the merits is continued for 60 days. Scheduling Conference set for 1/30/2018 02:00 PM before case manager by telephone. Signed by Judge Mary Ann Vial Lemmon.(ecm) (Entered: 01/09/2018)
01/16/2018	<u>23</u>	ORDER SCHEDULING SETTLEMENT CONFERENCE: A Settlement Conference is set for Thursday, 4/19/2018 at 2:00 PM before Magistrate Judge Janis van Meerveld. The required settlement memoranda, are due no later than midnight on Thursday, 4/12/2018. Signed by Judge Jay C. Zainey on 1/16/2018.(ajn) (Entered: 01/16/2018)
01/31/2018	<u>24</u>	SCHEDULING ORDER: Final Pretrial Conference set for 4/26/2018 02:30 PM before Judge Mary Ann Vial Lemmon. Bench Trial set for 5/21/2018 09:00 AM before Judge Mary Ann Vial Lemmon. All discovery must be completed by 2/27/2018. Signed by clerk. (Attachments: # <u>1</u> Pretrial Notice Form)(ecm) (Entered: 01/31/2018)
02/08/2018	<u>25</u>	MOTION for Summary Judgment by U.S. Army Corps of Engineers. Motion(s) will be submitted on 2/28/2018. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit A, # <u>3</u> Statement of Contested/Uncontested Facts, # <u>4</u> Notice of Submission)(Dupre, Brock) (Entered: 02/08/2018)
02/13/2018	<u>26</u>	Cross MOTION for Summary Judgment by Robert Beard. Motion(s) will be submitted on 2/28/2018. (Attachments: # <u>1</u> Memorandum in Support and in Reply to Defendants Motion for Summary Judgment, # <u>2</u> Statement in Opposition to Defendants Statement of Uncontested Facts, # <u>3</u> Statement of Contested/Uncontested Facts Plaintiffs Statement of Uncontested Facts, # <u>4</u> Proposed Order, # <u>5</u> Notice of Submission)(Lewis, Drake) (Entered: 02/13/2018)
02/20/2018	<u>27</u>	RESPONSE/MEMORANDUM in Opposition filed by U.S. Army Corps of Engineers re <u>26</u> Cross MOTION for Summary Judgment . (Attachments: # <u>1</u> Statement of

		Contested/Uncontested Facts)(Dupre, Brock) (Entered: 02/20/2018)
03/01/2018	<u>28</u>	ORDER AND REASONS that Defendant's <u>25</u> Motion for Summary Judgment is DENIED. IT IS FURTHER ORDERED that Plaintiffs' <u>26</u> Motion for Summary Judgment is GRANTED as to the requested relief of ordering the defendant to produce a supplemental Vaughn Index. IT IS FURTHER ORDERED that the defendant produce an amended Vaughn index within 30 days of the date of this order as stated herein. Signed by Judge Mary Ann Vial Lemmon on 3/1/2018. (cms) (Entered: 03/01/2018)
03/30/2018	<u>29</u>	Response/Reply by U.S. Army Corps of Engineers to <u>28</u> Order on Motion for Summary Judgment,,, (Attachments: # <u>1</u> Exhibit A)(Dupre, Brock) (Entered: 03/30/2018)
04/13/2018	<u>30</u>	ORDER: At the request of counsel, the Settlement Conference set for April 19, 2018 at 2:00 p.m. is CANCELLED. Signed by Magistrate Judge Janis van Meerveld on 4/13/2018.(ajm) (Entered: 04/13/2018)
04/20/2018	<u>31</u>	EXPARTE/CONSENT Joint MOTION to Continue by U.S. Army Corps of Engineers. (Attachments: # <u>1</u> Proposed Order)(Dupre, Brock) (Entered: 04/20/2018)
04/23/2018	<u>32</u>	ORDER granting <u>31</u> Joint MOTION to Cancel the Pretrial Conference and Trial. IT IS FURTHER ORDERED that dispositive motions shall be filed in sufficient time to be heard by May 30, 2018. Signed by Judge Mary Ann Vial Lemmon on 4/23/2018. (cms) (Entered: 04/23/2018)
05/02/2018	<u>33</u>	Second MOTION for Summary Judgment by Robert Beard. Motion(s) will be submitted on 5/23/2018. (Attachments: # <u>1</u> Statement of Contested/Uncontested Facts, # <u>2</u> Memorandum in Support, # <u>3</u> Exhibit A, # <u>4</u> Exhibit B, # <u>5</u> Exhibit C, # <u>6</u> Exhibit D, # <u>7</u> Exhibit E, # <u>8</u> Exhibit F, # <u>9</u> Proposed Order, # <u>10</u> Notice of Submission)(Lewis, Drake) Modified text on 5/3/2018 (ajm). (Entered: 05/02/2018)
05/15/2018	<u>34</u>	Second MOTION for Summary Judgment by U.S. Army Corps of Engineers. Motion(s) will be submitted on 5/30/2018. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit A, # <u>3</u> Statement of Contested/Uncontested Facts, # <u>4</u> Notice of Submission)(Dupre, Brock) (Entered: 05/15/2018)
05/15/2018	<u>35</u>	RESPONSE/MEMORANDUM in Opposition filed by U.S. Army Corps of Engineers re <u>33</u> Second MOTION for Summary Judgment . (Attachments: # <u>1</u> Statement of Contested/Uncontested Facts)(Dupre, Brock) (Entered: 05/15/2018)
05/22/2018	<u>36</u>	RESPONSE/MEMORANDUM in Opposition filed by All Plaintiffs re <u>34</u> Second MOTION for Summary Judgment . (Attachments: # <u>1</u> Statement of Contested/Uncontested Facts)(Lewis, Drake) (Entered: 05/22/2018)
05/22/2018	<u>37</u>	EXPARTE/MOTION for Leave to File Reply by All Plaintiffs re <u>33</u> Second MOTION for Summary Judgment . (Lewis, Drake) (Main Document 37 replaced with correct image on 5/23/2018) (cms). (Additional attachment(s) added on 5/23/2018: # <u>1</u> Memorandum in Support, # <u>2</u> Proposed Pleading, # <u>3</u> Proposed Order) (cms). Modified on 5/23/2018 (cms). (Entered: 05/22/2018)
05/24/2018	<u>38</u>	ORDER granting <u>37</u> Motion for Leave to File Reply. Signed by Judge Mary Ann Vial Lemmon on 5/24/2018. (cms) (Entered: 05/24/2018)
05/24/2018	<u>39</u>	REPLY to Response to Motion filed by Robert Beard, Garry Lewis, Livingston Town, LA, Carolyn Milton re <u>33</u> Second MOTION for Summary Judgment . (cms) (Entered: 05/24/2018)
06/14/2018	<u>40</u>	ORDER AND REASONS: IT IS HEREBY ORDERED that <u>33</u> Motion for Summary Judgment is GRANTED as to the requested relief of ordering the defendant to produce the withheld documents for an ex parte in camera inspection. The motion is otherwise DENIED. IT IS FURTHER ORDERED that <u>34</u> Motion for Summary Judgment is GRANTED as to the requested relief of the court conducting an ex parte in camera inspection of the withheld documents. The motion is otherwise DENIED. IT IS FURTHER ORDERED that the defendant produce the withheld documents to the court for an ex parte in camera inspection within 15 days of the date of this Order. The court will then determine whether the documents were properly withheld pursuant to the claimed FOIA exemptions. Signed by Judge Mary Ann Vial Lemmon on

		6/13/2018. (ajm) (Entered: 06/14/2018)
10/22/2018	<u>41</u>	NOTICE: Scheduling Conference set for 10/30/2018 03:00 PM before case manager by telephone. The Court will initiate the telephone conference call. Issued by clerk.(ecm) (Entered: 10/22/2018)
10/30/2018	<u>42</u>	ORDER AND REASONS – IT IS HEREBY ORDERED that the USACE has complied with its FOIA obligations and the documents listed on the Vaughn indices were properly withheld. If plaintiffs intend to file a Motion for attorneys' fees, they must set such motion for hearing no later than December 19, 2018. Signed by Judge Mary Ann Vial Lemmon on 10/30/2018.(sa) (Entered: 10/30/2018)
10/30/2018	<u>43</u>	ORDER – Considering the Court's Order and Reasons (Rec. Doc. 42); IT IS ORDERED that the Scheduling Conference previously set for October 30, 2018 is hereby CANCELLED. Signed by Judge Mary Ann Vial Lemmon on 10/30/2018.(sa) (Entered: 10/30/2018)
11/29/2018	<u>44</u>	EXPARTE/CONSENT MOTION for Extension of Time to File <i>Motion for Fees</i> by Robert Beard. (Attachments: # <u>1</u> Proposed Order)(Lewis, Drake) (Entered: 11/29/2018)
11/30/2018	<u>45</u>	ORDER granting <u>44</u> Motion for Extension of Time to File Motion for Fees. IT IS ORDERED that the Motions is GRANTED, and Plaintiffs must set for hearing any motion for fees no later than January 16, 2019. Signed by Judge Mary Ann Vial Lemmon on 11/30/2018. (sa) (Entered: 11/30/2018)
12/31/2018	<u>46</u>	MOTION for Attorney Fees by Robert Beard. Motion(s) will be submitted on 1/16/2019. (Attachments: # <u>1</u> Memorandum in Support of Motion for Costs and Fees, # <u>2</u> Exhibit Declaration Supporting Award of Fees and Expenses, # <u>3</u> Proposed Order, # <u>4</u> Notice of Submission)(Lewis, Drake) (Entered: 12/31/2018)
01/02/2019	<u>47</u>	EXPARTE/CONSENT MOTION to Stay <i>all Deadlines</i> by U.S. Army Corps of Engineers. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Proposed Order)(Dupre, Brock) (Entered: 01/02/2019)
01/08/2019	<u>48</u>	ORDER granting <u>47</u> Motion to Stay. IT IS ORDERED that defendant, USACE be and is GRANTED a stay of all deadlines in this matter until Department of Justice attorneys are permitted to resume their usual civil litigation functions. Signed by Judge Mary Ann Vial Lemmon on 1/8/2019. (sa) (Entered: 01/08/2019)
01/15/2019	<u>49</u>	MOTION to Amend/Correct <u>46</u> MOTION for Attorney Fees by Robert Beard. Motion(s) will be submitted on 1/16/2019. (Attachments: # <u>1</u> Statement Amended Declaration Supporting Award of Attorney Fees and Expenses, # <u>2</u> Notice of Submission)(Lewis, Drake) (Entered: 01/15/2019)
01/30/2019	<u>50</u>	EXPARTE/CONSENT MOTION Motion to Lift Stay by U.S. Army Corps of Engineers. (Attachments: # <u>1</u> Proposed Order)(Dupre, Brock) (Entered: 01/30/2019)
01/31/2019	<u>51</u>	ORDER granting <u>50</u> Motion to Lift Stay. IT IS FURTHER ORDERED this matter be restored to the Court's docket. It is also ORDERED that the Plaintiffs' Motion for Recovery of Costs and Fees, (Rec. Doc. 46), as amended in Plaintiffs' Amended Motion for Recovery of Costs and Fees, (Rec. Doc 49), is reset for submission on 2/27/2019 at 2:00 p.m. Signed by Judge Mary Ann Vial Lemmon on 1/31/2019. (ajm) (Entered: 01/31/2019)
02/20/2019	<u>52</u>	ORDER DISMISSING CASE. Signed by Judge Mary Ann Vial Lemmon on 2/20/2019.(ajm) (Entered: 02/20/2019)